

## **Morse, W. Travis SPK**

---

**From:** Mark\_McCutcheon@nps.gov  
**Sent:** Monday, June 20, 2011 12:11 PM  
**To:** Morse, W. Travis SPK  
**Subject:** Re: contact info (UNCLASSIFIED)  
**Attachments:** East Inlet Wetland Damage.doc

Travis,

Allow me to provide additional information that was reported last friday concerning the wet land issue at East Inlet Creek.

Mark McCutcheon

please see attached

(See attached file: East Inlet Wetland Damage.doc)

Date: June 17<sup>th</sup>, 2011

Subject: Wetland Damage to East Inlet UPDATE

From: Mark C. McCutcheon

Additional Information since June 14<sup>th</sup>, 2011

On June 15<sup>th</sup>, 2011, from 1110 to 1200 hours, I called and spoke with Mrs. Kay Bianco over the phone concerning follow-up information. In essence the following information was supplied to me:

- They, The Bianco's, called NCWC and asked for technical advice concerning stream management as it concerned high water of East Inlet.
- NCWC provided advice and the rock for the dike to be built.
- The Bianco's contracted a construction company to place the rock along the stream shoreline. (Hammerland Construction?)
- The Bianco's financed the operation.
- The Bianco's did not place fill behind the rock work.
- The Bianco's expressed confusion as to the ownership of property concerning the placement of the rock stabilizing wall.
- The Bianco's did not want to apply for a 404 Permit (wetland disturbance) from the Army Corps of Engineers because it would take too long.
- The Bianco's did not consider the "wetland" disturbance as any concern other than their own.

One June 17<sup>th</sup>, from 1000 to 1100 hours, I escorted Park GIS employee Ron Thomas to the area of interest. He used an advanced GPS unit to determine exact location of the area of concern. Once downloaded and analyzed it will then determine if the area of disturbance falls within the conservation easement.

On June 17<sup>th</sup>, at 1310 hours, I contacted Noble Underbrink of NCWC by phone. The following information, in essence, was supplied to me:

- NCWC was contacted by the Bianco's on or around May First concerning water issues on East Inlet Creek.

- NCWC provided information and advice on stream management in order to “maintain a working relationship” with the Bianco’s whose property NCWC has to cross in order to access their Stream Measuring Station on East Inlet.
- NCWC provided angulated rock from their quarry for the stream stabilization project. They **did not** place the rock along the stream bank.
- Underbrink stated that the Bianco’s had removed trees and other vegetation from the area of interest (wet lands) in the past year.
- Underbrink did not recall a specific conversation with the Bianco’s concerning the need of a 404 permit but does recall the Bianco’s implying the process of any permits would “take too long”.
- NCWC did not make specific advice concerning permitting.
- NCWC assumed the retaining wall would be placed on Bianco property.

Mark C. McCutcheon  
CRD District Ranger  
Rocky Mountain National Park

Date: June 14<sup>th</sup>, 2011

Subject: Wetland Damage to East Inlet Creek

From: Mark C. McCutcheon

Facts of the case known at this time:

### **SUMMARY**

On June 8<sup>th</sup>, 2011, the park received a call from a Mr. John Swartz concerning possible wetland damage that was committed by a neighbor within the East Inlet Creek drainage. He alleged that a wetland, within his conservation easement incorporated inside the boundary of Rocky Mountain National Park, was "filled in" and a dike or dam built along the creek diverting water back into the park. I first spoke with Mr. Swartz on Thursday, June 9<sup>th</sup>, who stated his neighbor, Mr. Jim Bianco, illegally filled in a large section of wetland "this spring".

On June 10<sup>th</sup>, at 0830 hours, myself and Park Ranger Ray Miller inspected the site of the alleged manipulation of the stream. We found the following:

- A rock dike, approximately 120', recently built along the west bank of the East Inlet stream, keeping the waters out of adjacent wetlands.
- A wetland area, approximately an acre in size, recently filled in with truck loads of soil. (photo attached)
- Damaged, crushed, or recently removed willow and sedge vegetation. (photo attached)
- Stream water redirected back into the main channel and side channel of East Inlet Creek

Upon further inspection and investigation we discovered the following:

- Boundary and property markers approximately 35 and 60 feet west of the dike.

- Via boundary markers and aerial photographs the entirety of the rock dike along with approximately 1/3 of the recently filled wetland is within Mr. Swartz's conservation easement (RMNP).

On June 10<sup>th</sup> at approximately 1000 hours we contacted Mr. Jim Bianco and his wife at his residence of [REDACTED]. In a conversation with Mr. Bianco the following was understood:

- Bianco contacted Northern Colorado Water Conservancy (NCWC) and requested they, in essence, firm up and fill in the East Inlet Creek due to predicted high water. This was done with the intent of "saving property".
- NCWC inspected the area of concern and stated they would do so. NCWC, according to Bianco, stated they would not acquire a 404 Permit from the US Army Corps of Engineers because, "it's too slow".
- NCWC, with heavy equipment and trucks, built the dike and filled in the wetland in May of 2011.
- NCWC did not seek a permit nor did they inform the property owner, National Park Service, or Army Corps of Engineers before or after the construction project.
- The Bianco's have a life time legal restraining order against [REDACTED] from being within 100 feet of the Bianco's.

On June 14<sup>th</sup> I contacted the Grand Junction Office of the Army Corps of Engineers who oversee permitting within Grand County. They confirmed they had not received an application from NCWC nor were they contacted by NCWC when the project was completed. I contacted the office of NCWC at 1100 hours, left a message, and am waiting for a reply.

Mark C. McCutcheon  
Colorado River District  
Rocky Mountain National Park